

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appellant(s): Berger, A., et al.  
Appl. No.: 10/089,658  
Conf. No.: 6858  
Filed: July 22, 2002  
Title: NUTRITIONAL COMPOSITION  
Art Unit: 1615  
Examiner: N.G. Ebrahim  
Docket No.: 112843-44

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO NON-COMPLIANT APPEAL BRIEF**

Sir:

This Response is submitted in reply to the Notice of Non-Compliant Appeal Brief dated December 16, 2008.

REMARKS

In response to the Notice of Non-Compliant Appeal Brief dated December 16, 2008, Appellants have included a proper recitation of the status of all the claims filed in the application. The compliant version of the Appeal Brief is attached as Exhibit A without copies of the cited references, which were previously submitted.

Appellants submit that the present Appeal Brief is compliant under 37 CFR 41.37. Appellants respectfully request reconsideration of the Appeal Brief and submit that the Patent Office has failed to establish obviousness with respect to the rejections of the claimed invention. Accordingly, Appellants respectfully submit that the obviousness rejections are erroneous in law and in fact and should therefore be reversed.

The Director is authorized to charge any fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 112843-44 on the account statement.

Respectfully submitted,

BELL, BOYD & LLOYD LLP

BY \_\_\_\_\_

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Dated: December 19, 2008